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OVERSIGHT OF IRS TAXPAYER ASSISTANCE PROGRAMS

A REPORT

PREPARED BY THE

SUBCOMMITTEE ON OVERSIGHT OF GOVERNMENT MANAGEMENT

OF THE

COMMITTEE ON GOVERNMENTAL AFFAIRS UNITED STATES SENATE

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LETTER OF TRANSMITTAL

U.S. SENATE,
OVERSIGHT OF GOVERNMENT MANAGEMENT,
COMMITTEE ON GOVERNMENTAL AFFAIRS,
Washington, D.C., July 15, 1982.

Hon. WILLIAM V. ROTH, Jr.,
Chairman, Committee on Governmental Affairs, Dirksen Senate Office Building, Washington, D.C.

DEAR MR. CHAIRMAN: The Subcommittee on Oversight of Government Management transmits the following report on the Internal Revenue Service taxpayer assistance program.

As a result of our investigation and hearing, the Subcommittee found that the proposed reductions in the IRS taxpayer assistance program would be costly to taxpayers, who depend on the IRS for free assistance, and to the government, which depends on these taxpayers to voluntarily pay their taxes. According to evidence and testimony presented, the Subcommittee specifically found that reductions in taxpayer assistance would hurt voluntary compliance and, combined with increases in enforcement activity, would promote an adversarial relationship with the taxpaying public.

Of particular concern to the Subcommittee was the adverse impact on elderly and low-income taxpayers. For those taxpayers who can afford commercial assistance, the proposed reductions would be unfortunate but not disastrous. But for elderly and low-income taxpayers—those most dependent on free IRS advice—the Subcommittee found that the cutbacks would be devastating.

The Subcommittee concluded that the short-run savings realized from eliminating selective assistance programs would not compensate for the long-term costs to the taxpayer, and, ultimately, to the government. Accordingly, the Subcommittee recomended that the IRS taxpayer assistance program be maintained at adequate levels next year, as advocated by former IRS commissioners and other specialists in the field. A balanced taxpayer assistance program at fiscal 1982 levels would maximize the numbers of taxpayers to be assisted and address the special needs of low-income, elderly, and physically-handicapped taxpayers.

Other Subcommittee recommendations would improve the quality of the IRS telephone assistance, strengthen the IRS-sponsored volunteer assistance, and maintain the organizational visibility of the taxpayer assistance program.

The implementation of the Subcommittee's recommendations would reaffirm the IRS commitment to taxpayer assistance and preserve its long-established policy.

Sincerely,

WILLIAM S. COHEN, *Chairman.*

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I. INTRODUCTION

On March 24, 1982, the Senate Subcommittee on Oversight of Government Management held a hearing to examine the impact of the proposed reductions in the Internal Revenue Service Taxpayer Service programs. The Subcommittee believed that the Administration's proposals, which represented a reversal in IRS taxpayer assistance policy, warranted investigation.

Currently, the IRS policy for Taxpayer Service states that:

> The Service [IRS] is committed to a Taxpayer Service program which will help taxpayers voluntarily comply with tax laws and assist them in meeting their obligations under the tax laws. The resource requirements needed to fulfill this commitment will be given the same level of consideration as requirements for other major Service programs.[1]

The Subcommittee was concerned that the actual and proposed reductions in Taxpayer Service for fiscal years 1982 and 1983—which cut funding by 10.2 per cent, staff years by 41 per cent, and, most significantly, the number of taxpayers assisted by 60 per cent—would undermine the IRS commitment to taxpayer assistance and contradict its long-established policy.[2] The IRS has projected a decrease in taxpayers assisted from 44.8 million in fiscal 1981 to only 17.9 million in fiscal 1983, despite an increase in the number of tax returns filed, if the budget cuts are implemented.[3]

Most taxpayers require help to accurately complete their tax returns. For those who cannot afford commercial assistance, particularly elderly and low-income taxpayers, the IRS has been the traditional source of free advice. In the past, the IRS offered a generous Taxpayer Service program which provided direct and indirect assistance.[4] A toll-free telephone network, which supplied answers to taxpayer questions, and walk-in facilities, accessible to most taxpayers who wanted more personalized or detailed help, opened the IRS to the public. The IRS also assisted taxpayers indirectly by training volunteers, sponsoring workshops, and distributing publications to help with return preparation.

Of the 44.8 million people requesting assistance from IRS in fiscal 1981, 36 million did so by telephone.[5] The calls for assistance are categorized into two groups: account questions, such as "When do I get my refund?," and substantive tax law questions, such as "Am I eligible for

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[1] Internal Revenue Manual P–6–1, see Hearing before the Senate Subcommittee on Oversight of Government Management of the Committee on Governmental Affairs, 97th Congress, "Oversight of IRS Taxpayer Assistance Programs," March 24, 1982, at 105.

[2] These percentages are based on figures in the IRS Congressional Submissions for fiscal years 1982 and 1983, Hearing Record, pp. 191–201, 257–270.

[3] Chart of tax returns filed versus taxpayers assisted, fiscal years 1979 through 1981, fiscal years 1982 and 1983 estimated, Hearing Record, p. 78.

[4] United States General Accounting Office, "Internal Revenue Service Assistance to Taxpayers in Filing Federal Income Tax Returns," GGD–76–49, Apr. 1, 1976, pp. 1–19.

[5] Internal Revenue Service, 1981 Annual Report, Commissioner of Internal Revenue and the Chief Counsel for the Internal Revenue Service, publication 55, p. 10.

the earned income credit?" According to IRS data, 40 per cent of the calls made last year were account related and the other 60 percent involved substantive tax law questions.[6] The IRS also handled over 8.5 million face-to-face inquiries at walk-in offices around the country.[7] Assistance provided on a walk-in basis included handing out forms, answering tax questions, instructing taxpayers on how to complete their returns (self-help method), reviewing returns, and, as a last resort, preparing returns for taxpayers.

FOCUS OF INVESTIGATION

In fiscal 1982, IRS Taxpayer Service personnel was cut by almost 10 per cent, forcing the IRS to close 214 walk-in offices around the country and to eliminate the direct preparation and review programs for most taxpayers in those offices that remained open.[8] Direct return preparation assistance involved having IRS personnel actually "put pencil to paper," i.e., fill out parts or all of a return for an individual taxpayer. Return review assistance consisted of having IRS personnel check individual taxpayers' returns for mathematical accuracy and completeness before the return was filed. According to the fiscal 1982 IRS budget documents, the elimination of these programs would shift the emphasis from walk-in assistance to the toll-free telephone program.[9]

In fiscal 1983, however, telephone assistance would be drastically reduced. IRS Taxpayer Service personnel is slated to be cut by 35 percent and the program subsequently refocused to concentrate on answering questions only *after* the return has been filed.[10] Under this new policy, the toll-free telephone program, now the most popular source of assistance, would provide only after-the-fact answers to account and notice questions, despite the fact that more than half the calls IRS received last filing period were questions about tax laws and return preparation. Consequently, the responsibility of answering front-end, technical tax law questions would effectively be passed to IRS-trained volunteer groups and to the private sector.

Given this reduction and refocusing of the IRS taxpayer service function, the Subcommittee's investigation examined the following issues:

(1) Is it the responsibility of the IRS to provide tax assistance to the public?

(2) Will reducing Taxpayer Service programs adversely affect compliance with our tax laws?

(3) Can the IRS provide high-quality and timely service through its toll-free telephone program to offset the reduction in

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[6] The Taxpayer Service Quality Review Occurrence Survey (fiscal 1981) distinguishes between technical and non-technical calls made to the IRS, Hearing Record, pp. 295–313.

[7] Supra note 5.

[8] The number of walk-in offices closed for fiscal 1982 was compiled by the General Accounting Office. There were 829 offices open for walk-in service in fiscal 1981 and 615 in fiscal 1982, a reduction of 26 per cent. The IRS will continue to prepare returns in those offices which remained open for the handicapped and other individuals who demonstrate an inability to use the self-help method.

[9] Internal Revenue Service, "Congressional Submission," fiscal 1982, Hearing Record, p. 197.

[10] Internal Revenue Service, "Congressional Submission," fiscal 1983, Hearing Record, p. 255.

walk-in service for fiscal 1982, and provide an adequate volunteer program to offset the reduction in telephone assistance for fiscal 1983?

(4) What are the consequences of this shift in IRS policy for low-income and elderly taxpayers who are most dependent on the free tax assistance provided by the IRS?

(5) What effect will the IRS' decision to reduce Taxpayer Service at the same time it is increasing the budget for Examination and Collection have on the public's perception of the IRS?

To assist the Subcommittee in its examination of the IRS Taxpayer Service programs, the following witnesses testified at the hearing:

The Honorable William V. Roth, Jr., United States Senator from the state of Delaware;

The Honorable Donald C. Alexander, Former Commissioner of the Internal Revenue Service;

The Honorable Jerome Kurtz, Former Commissioner of the Internal Revenue Service;

Professor Deborah H. Schenk, Harvard Law School;

William J. Anderson, Director of the General Government Division of the United States General Accounting Office; and

The Honorable Roscoe L. Egger, Jr., Commissioner of the Internal Revenue Service.

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II. BACKGROUND OF TAXPAYER SERVICE

Since the 1940s, the Internal Revenue Service's taxpayer assistance has evolved from a part-time program into one with full-time staff, separate divisional status, and an emphasis on regional and district responsibility.[11]

As tax laws have become more complex, a significant development since World War II, the need for assistance has grown. In the early 1940s, the Bureau of Internal Revenue (the predecessor agency to the IRS) provided taxpayer assistance on an informal basis, such as broadcasting tax information over public address systems in Federal buildings.

A more formal taxpayer service program was established during the 1950s. Clerks and auditors from the Collection and Audit divisions assisted taxpayers in preparing their returns. Evening telephone service, extended office hours in some cities, and qualified IRS speakers for television and radio helped to educate the taxpaying public.

Throughout the 1960s and 1970s, the IRS taxpayer service program expanded and gradually developed its own organizational identity. Taxpayer Service was established in 1963 at the national office as a branch of the Collection division, and based on recommendations made in a 1970 IRS report, attained separate divisional status in 1971.

1971 IRS REORGANIZATION

In 1970, Commissioner Randolph Thrower directed a committee to review the IRS organizational structure. Based on survey results of national and field officials, the Committee found overwhelming support for a stronger organization to broaden the scope of the taxpayer service function.

In its 1970 report, entitled the *Report of the Committee on Organization of the Internal Revenue Service*, the Committee emphasized that taxpayer assistance, along with enforcement, are important factors affecting voluntary compliance. Through enforcement activities—examination, collection, and investigation—the Service penalizes those taxpayers unwilling to comply. According to the Committee, however, willingness to comply is only one aspect of compliance; the taxpayer must also have the ability. The report stated:

> It is obvious that if a given taxpayer is to be able to comply he must understand what the law requires of him, he must have appropriate forms and instructions, and he must be able to obtain assistance in solving his more complex tax problems. . . . Clearly, an effective taxpayer service program can contribute to high levels of compliance.[12]

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[11] Paper prepared by the IRS for the General Accounting Office on the background of the Taxpayer Service division, Feb. 23, 1981. Also, see testimony of Mr. William J. Anderson, Director, General Government Division, General Accounting Office, before the Subcommittee on Oversight of Government Management, March 24, 1982, Hearing Record, pp. 35–50.

[12] Internal Revenue Service, "Report of the Committee on Organization of the Internal Revenue Service," August 12, 1970, Hearing Record, p. 139.

Based on its findings, the Committee recommended that the taxpayer service function be upgraded to reflect the IRS' increased emphasis on effective assistance to taxpayers. Specifically, the Committee recommended that a new office of Assistant Commissioner for Accounts, Collection, and Taxpayer Service be established. This change was implemented in the 1971 IRS reorganization.

1978 IRS REORGANIZATION

As follow-up to the 1970 IRS report, Commissioner Jerome Kurtz formed a committee in 1977 to review the IRS organization. In its February 1978 report, entitled the *Summary of IRS Organizational Review Adopted Recommendations*, the Committee stated that the establishment of the Assistant Commissioner for Accounts, Collection, and Taxpayer Service was a step in the right direction, but there was need for further refinement. The Committee recommended that the responsibility for service to the public be placed under one executive, designated the Assistant Commissioner for Taxpayer Service and Returns Processing, and that collection, an enforcement function, be transferred to the compliance activity.[13]

In July 1978, as part of an overall reorganization, the IRS implemented the Committee's recommendation and established a separate Assistant Commissioner position for taxpayer service. The reorganization, according to a General Accounting Office study, afforded taxpayer service a voice equal to that of enforcement in establishing tax policy.[14]

As the Taxpayer Service program gained greater standing with each reorganization, its budget and staff increased. Between fiscal years 1974 and 1980, the average positions for Taxpayer Service increased by 31 per cent.[15] The budget grew during this same time period, as a percentage of the total IRS budget, from six per cent to nine per cent.[16] With more funding and personnel, the Taxpayer Service workload increased from 31.9 million contacts in fiscal 1974 to 43 million in fiscal 1980, an increase of approximately 35 per cent.[17] Therefore, the increase in resources over the years has translated into an equivalent increase in taxpayers assisted.

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[13] Internal Revenue Service, "Summary of IRS Organizational Review Adopted Recommendations," February 1978, Hearing Record, pp. 175–188.

[14] U.S. General Accounting Office "How Taxpayer Satisfaction With IRS' Handling of Problem Inquiries Could Be Increased," GGD–79–74, Sept. 18, 1979, p. 27.

[15] In order to compare the staff years for fiscal years 1974 and 1980, according to the IRS Treasury submission, several adjustments have to be made: First, detail-in staff years contributed by Examination and Collection, which are included in the fiscal 1980 Taxpayer Service budgeted staff years but not in the fiscal 1974 figures, must be added to the fiscal 1974 total. Adding these staff years (721) brings the fiscal 1974 total (2,798) to 3,519 staff years. Second, the fiscal 1980 budgeted staff years (5,591) must be reduced by the number of staff years which have been added because of reorganization or program transfer. This results in a reduction of 965 staff years, for a total of 4,626 staff years.

[16] These percentages are based on figures in the 1974 and 1980 IRS Congressional Submissions.

[17] The workload figures must also be adjusted. According to the IRS Treasury submission, Taxpayer Service has modified and refined its reporting system over the years. In fiscal 1974, a manual reporting system was used which relied on estimates made by assistors of their daily workload. This often resulted in inflated counts, particularly in smaller posts-of-duty. This process has since been replaced by a computerized reporting system which provides a more accurate count of the workload. In addition, selected activities previously reported as walk-in contacts, such as forms-only requests, were included in walk-in workload measures in fiscal 1974 but not in fiscal 1980. The IRS estimates there were at least two million such contacts in fiscal 1974. Also, Taxpayer Service contacts in fiscal 1974 included walk-in and telephone assistance by Service Centers which is no longer offered.

TAXPAYER SERVICE WORKLOAD BY PROGRAM

[In millions]

	Telephone	Walk-in	Correspondence	Taxpayers assisted
Fiscal year:				
1974	24.7	9.5	0.2	31.9
1975	29.1	11.7	.2	41.0
1976	28.4	10.0	.2	38.6
1977	28.5	9.3	.1	37.9
1978	28.9	9.0	.1	39.0
1979	32.6	8.3	.1	41.0
1980	34.5	8.4	.1	43.0
1981	36.0	8.7	.1	44.8
1982 (est.)	33.9	7.4	.1	41.4
1983 (est.)	12.6	5.2	.1	17.9

These figures do not incorporate organizational changes which, according to the IRS, positively affected the staff year-workload ratio.[18] The establishment of its own division, separate from Collection, provided an independent management structure for Taxpayer Service. Also, the development of a large cadre of seasonal employees, as well as the creation of the Taxpayer Service Specialist position, upgraded from the Taxpayer Service Representative position, increased productivity.

[18] Internal Revenue Service, "Treasury Submission," fiscal 1983, Hearing Record, pp. 217.

III. REDUCTIONS IN TAXPAYER SERVICE

Since fiscal 1981, the budget and staff for Taxpayer Service have been on the decline. The reductions implemented in fiscal years 1981 and 1982 were prompted by budget cutbacks which affected the entire Federal Government, including the IRS. For fiscal 1983, however, the Administration has proposed a further, and more drastic, reduction in IRS taxpayer assistance programs—despite a proposed *increase* in the overall budget and staffing for the IRS.

BUDGET AND STAFFING: IRS TOTAL VERSUS TAXPAYER SERVICE

	Budget		Staffing	
	IRS total (billions)	Taxpayer services (millions)	IRS total	Taxpayer service
Fiscal year:				
1982	$2.6	$230.5	84,358	4,818
1983 (proposed)	2.9	195.9	83,673	3,127

Evidently, Taxpayer Service is to be cut for reasons other than fiscal austerity. To determine these reasons, and to establish the origin of the cuts in Taxpayer Service, the Subcommittee obtained copies of the IRS budget documents for fiscal 1983. The IRS budget process includes: (1) the budget submission from the IRS to the Department of the Treasury, (2) the submission from the Treasury Department to the Office of Management and Budget (OMB), and (3) the OMB submission to Congress.

IRS SUBMISSION TO TREASURY

In developing its fiscal 1983 budget request, IRS provided the Treasury Department, its parent agency, with alternative proposals for Taxpayer Service. Of these proposals, the IRS recommended to Treasury that a balanced program be maintained at fiscal 1982 levels, which would include toll-free telephone assistance, walk-in assistance with returns preparation through self-help methods, volunteer programs, and taxpayer information and education programs.

The IRS emphasized in ite budget submission that its goal was to maintain a level of Taxpayer Service which maximized accessibility to those who were incapable of preparing their own returns.[19]

TREASURY SUBMISSION TO OMB

Treasury officials disregarded IRS Commissioner's recommendation. In its budget submission to OMB, the Deputy Secretary of the Treasury recommended the elimination of the taxpayer service function in fiscal 1983. Tax account assistance, according to this document,

[19] Id., Hearing Record at 202-222.

would become the responsibility of the auditors and agents in the examination and collection divisions.[20]

IRS APPEAL TO TREASURY

In an October 1981 memorandum to Deputy Secretary R. T. McNamar, Commissioner Roscoe Egger appealed Treasury's decision to eliminate Taxpayer Service by listing the consequence of cutting each of the programs.[21] According to the memorandum, the consequences of eliminating tax law assistance by telephone included:

- Over 27 million taxpayers would lose this assistance.
- Large increases in correspondence on tax law questions would result [which] could not be answered.
- Large numbers of taxpayers would interpret the law in a way favorable to themselves, or ignore it, with little likelihood of detection.
- Potential revenue losses would be great, with widespread deterioration of voluntary compliance possible.[22]

A follow-up memorandum in November from the IRS to Treasury emphasized that many of the services slated to be cut were either required or generated from IRS-initiated contacts. These services, primarily account related, constituted about 40 percent of the Taxpayer Service workload. Aside from public affairs activities, tax law assistance made up the other 60 percent of the workload, which unlike tax account assistance, could be provided by the private sector. In its November memorandum, the IRS Commissioner pointed out that IRS personnel would have to answer account inquiries whether Taxpayer Service existed or not because that information was solely in its possession.[23]

OMB SUBMISSION TO CONGRESS

The final stage of the IRS budget process provided a compromise between the IRS recommendation for a balanced Taxpayer Service program and the Treasury decision to eliminate it.[24] Reflecting that compromise, the IRS Congressional Submission stated that resources were included for "a reduced and refocused Taxpayer Service program that concentrates on answering questions and resolving taxpayer problems once the return has been filed with the IRS." [25] A revised version of the Congressional Submission was not quite as explicit, stating instead that resources were included for "a reduced Taxpayer Service program." [26]

Based on these budget documents, the Subcommittee determined that the reductions in Taxpayer Service were imposed on the IRS; consequently, the IRS was forced to reverse its taxpayer assistance policy. This exchange between Senator William S. Cohen, chairman of the

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[20] Internal Revenue Service, "Office of Management and Budget Submission," fiscal 1983, Hearing Record, pp. 223–232.
[21] Memorandum of Oct. 26, 1981, from Commissioner Roscoe Egger, Internal Revenue Service, to Deputy Secretary McNamar, Department of Treasury, Hearing Record, pp. 233–241.
[22] Id., Hearing Record at 238–239.
[23] Memorandum of Nov. 27, 1981, from Commissioner Roscoe Egger, Internal Revenue Service, to Deputy Secretary McNamar, Department of Treasury, Hearing Record, pp. 242–249.
[24] Supra note 7, Hearing Record at 250–270.
[25] Id., Hearing Record at 255.
[26] Id., Hearing Record at 254.

Oversight of Government Management Subcommittee, and Commissioner Egger reflects the shift in IRS policy:

> Senator COHEN. . . . You originally recommended to the Secretary of the Treasury that taxpayer service be maintained at fiscal 1982 levels in fiscal 1983. Is that correct?
>
> Commissioner EGGER. That's correct.
>
> Senator COHEN. And that is because you believe the existing service was good.
>
> Commissioner EGGER. I did at that time.[27]

The Commissioner attributed this shift in policy to budget constraints. In light of the overall increases in budget and staffing for the IRS, however, the Subcommittee determined that the decision to reduce taxpayer assistance for fiscal 1983 was more an issue of priorities than budgeting. At the same time Taxpayer Service is being reduced by $34.5 million and 1,691 average positions, examination and collection—enforcement activities—are being increased by $154 million and 5,225 average positions.

Further evidence of this shift in policy away from taxpayer assistance is found in the 1982 IRS reorganization. Under this reorganization, approved by Treasury in January, Taxpayer Service has lost its separate divisional status. The Taxpayer Service division is retitled the Office of Tax Information and is transferred to the new Assistant Commissioner for Examination. According to the IRS, this move will allow for closer coordination, particularly in technical tax issues, between the Tax Information program and the Examination function.[28]

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[27] Testimony of Commissioner Roscoe L. Egger, Jr., before the Subcommittee on Oversight of Government Management, Mar. 24, 1982, Hearing Record, p. 55.

[28] Letters to Senator William S. Cohen from IRS Commissioner Roscoe Egger on the IRS reorganization, Dec. 8, 1981 and Jan. 26, 1982, Hearing Record, pp. 314–328.

IV. DISCUSSION

A. Overview of Findings

The Subcommittee found that the actual and proposed reductions in IRS Taxpayer Service programs would be costly to taxpayers, who depend on the IRS for free assistance, and to the government, which depends on these taxpayers to voluntarily pay their taxes. The budget reductions may provide short-term savings but, according to evidence and testimony presented to the Subcommittee, will result in long-term losses. Specifically, the Subcommittee found:

- There is sentiment in Congress and a consensus among former IRS commissioners that the IRS has the responsibility to provide free tax assistance.
- Voluntary compliance will decrease. According to two IRS studies, an October 1981 memorandum from Commissioner Egger to Treasury, and testimony from Subcommittee witnesses, the reductions in IRS taxpayer assistance programs will hurt compliance. In the October memorandum appealing the Treasury's decision to eliminate Taxpayer Service, Commissioner Egger emphasized that a one per cent reduction in compliance costs the government $4 billion annually.
- IRS telephone assistance was insufficient to offset the reduction in walk-in assistance for fiscal 1982, and it is unlikely that IRS-sponsored volunteer programs, IRS publications, the proposed Tele-Tax service, or commercial assistance can adequately fill the void created by the drastic reductions in telephone service in fiscal 1983.
- The cutbacks in IRS taxpayer assistance programs will adversely affect low-income and elderly taxpayers who will be forced to resort to commercial assistance, which they may not be able to afford.
- The proposed reduction in Taxpayer Service for fiscal 1983, combined with the proposed increase in Examination and Collection, will most likely promote an adversarial relationship with the taxpaying public.

B. IRS Has the Responsibility to Assist Taxpayers

Although the IRS is not required by law to help taxpayers prepare their returns, the Subcommittee believes that the responsibility of administering and enforcing the tax laws also involves assisting taxpayers in understanding them.

The IRS, at one time, would have agreed. According to a 1976 IRS report on taxpayer assistance, "there is no equity when the Government places complex burdens on taxpayers and then refuses to assist in explaining them." [29] Also, in its budget submission to Treasury for

[29] Internal Revenue Service Report to the Office of Management and Budget on the Costs and Benefits of IRS Returns Preparation and Review, Nov. 15, 1976, Hearing Record, p. 149.

fiscal 1983, the IRS justified its recommendation for a balanced Taxpayer Service program at fiscal 1982 levels by stating: "No taxpayer, when faced with a complex responsibility imposed by the government . . ., should be left without practical alternatives for getting the information and assistance needed to meet his or her responsibilities." [30]

With the proposed reduction in Taxpayer Service, and the concommitant shift in IRS policy away from tax law assistance, those taxpayers who need help in completing their returns but cannot afford commercial preparation will be left without "practical alternatives." In his prepared statement to the Subcommittee, Commissioner Egger outlined what he considered to be the IRS' responsibility for providing assistance:

> We feel the Service should focus its efforts on three categories of assistance: the type of assistance which can be provided only by the IRS, such as questions concerning bills, notices and refunds; the type of assistance which can be provided most effectively by IRS, such as timely and effective distribution of forms, publications, and other tax information materials; and special assistance geared toward elderly, low income, handicapped, non-English speaking, and others who have difficulty complying with current tax law.[31]

The Subcommittee found, however, there to be congressional sentiment and a consensus among former IRS commissioners that the IRS should provide tax law assistance, other than distributing publications and sponsoring volunteer programs, as well as tax account assistance to the public.

ALL TAXPAYERS' ASSISTANCE RESOLUTION

Senator William V. Roth, Jr., introduced a joint resolution in the 97th Congress to preserve the IRS taxpayer assistance program at the fiscal 1982 level. This resolution, which was unanimously approved by the Senate Finance Committee, would maintain the program at a level that would permit the IRS to fully respond to most taxpayers requesting assistance in fiscal 1983.

In his testimony before the Oversight Subcommittee, Senator Roth indicated that only three out of every 10 taxpayers seeking assistance will be helped if the proposed reductions in IRS taxpayer assistance were passed. He also emphasized that the need for assistance was due to the complexity of the tax laws. As a member of the Finance Committee, Senator Roth acknowledged that Congress is partly to blame:

> . . . The Finance Committee, on almost a bi-annual basis, proceeds to reform the tax legislation to make it more simple. It seems to me that every time we just end up making it more complex and difficult to comprehend.
>
> For that reason, I think it's critically important that we provide the kind of assistance that we have given in the past. . . .
>
> At a time when our tax code is becoming increasingly complex, we should provide greater, not fewer, services to our

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[30] Supra note 18, Hearing Record at 219.
[31] Prepared statement of Commissioner Roscoe L. Egger, Jr., Mar. 24, 1982, Hearing Record, p. 72.

> Nation's taxpayers. How can the Government expect the average working man or woman to comply with a system and pay his or her taxes when it takes an expert in the field of taxation to first decipher what is expected? [32]

Senator Carl Levin, a cosponsor of the resolution and ranking minority member of the Oversight Subcommittee, also underscored the responsibility of the IRS to provide substantive tax law assistance in his opening statement at the hearing:

> The IRS does have a positive obligation to insure compliance among taxpayers through education, reliable information, and face-to-face assistance, where needed. Obviously, the IRS could never be expected to provide this information to every taxpayer . . . but for the taxpayers who rely on IRS taxpayer services, the information assistance is unusually straight forward and relatively easy to offer.[33]

CONSENSUS AMONG FORMER IRS COMMISSIONERS

Former IRS Commissioners Donald Alexander and Jerome Kurtz testified at the hearing and agreed that the IRS is responsible for assisting taxpayers. During Mr. Alexander's tenure as commissioner from 1973 to 1977, the Taxpayer Service budget and staffing increased dramatically. This growth was due, in part, to the establishment of the nationwide toll-free telephone system in 1974. Former Commissioner Alexander's testimony before the Subcommittee reflected his strong conviction about assisting taxpayers:

> Almost every year the tax laws change and taxpayers are expected to understand those changes and apply them correctly. It is manifestly unfair to refuse assistance to taxpayers in meeting those burdens.
>
> The benefits to the government of a voluntary tax system are many, and there are corresponding responsibilities. These are to respond to taxpayers' questions on their rights and responsibilities, and on the application of the tax laws to them. The Government should also provide direct assistance in filling out tax forms to those taxpayers who need it. These services must also be made readily available.
>
> I am deeply concerned about the proposed 1983 budget for taxpayer service. The severe cuts in dollar amounts and staffing levels, the increased emphasis on volunteerism, and the proposed shift in the character of toll-free telephone assistance and walk-in services from substantive tax law to purely clerical responses to questions on refunds and notices will render the concept of taxpayer assistance virtually meaningless.
>
> . . . Our government has a responsibility to provide assistance to taxpayers, and we should not force them to pay for advice on how to meet their responsibilities.[34]

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[32] Testimony of Senator William V. Roth, Jr., before the Subcommittee on Oversight of Government Management, Mar. 24, 1982, pp. 3–4.

[33] Opening statement of Senator Carl Levin before the Subcommittee on Oversight of Government Management, Mar. 24, 1982, Hearing Record, pp. 5–6.

[34] Prepared statement of former IRS Commissioner Donald C. Alexander before the Subcommittee on Oversight of Government Management, Mar. 24, 1982, Hearing Record, pp. 16–17.

Jerome Kurtz succeeded Mr. Alexander as Commissioner of the IRS and served until 1980. Under his administration, Taxpayer Service was expanded to include the Problem Resolution Program (PRP). This program was developed in 1977 to provide a "court of last resort" for those taxpayers whose problems could not be solved through normal Taxpayer Service channels. In his statement to the Subcommittee, Mr. Kurtz also indicated that IRS has a responsibility to assist taxpayers:

> . . . We should be concerned about the question of fairness. Our government is financed largely by a self-assessment individual income tax system which is inordinately complex. We require taxpayers to compute and pay their own liabilities. It seems to me the government has an obligation to help taxpayers to fulfill their obligation.[35]

C. Reduction in Taxpayer Service Will Hurt Compliance

By abdicating its responsibility to help taxpayers prepare their returns, the IRS would increase the likelihood of noncompliance. The American tax system is founded on the principal of voluntary compliance. The effectiveness of our tax system depends on the taxpayer's ability to understand the law and willingly pay what he or she owes. Without free tax assistance, the Subcommittee found that more taxpayers will be less able to file accurate returns, which consequently will result in a huge revenue loss. Evidence presented to the Subcommittee included:

- A November 1976 IRS study which concluded that many taxpayers would not or could not comply with the law without its assistance;
- A follow-up IRS study in December 1977 which found that the examination rates for Service-prepared returns were lower than third-party and taxpayer-prepared returns;
- An October 1981 memorandum from Commissioner Egger to Treasury which stated that potential revenue losses would be great, with widespread deterioration of voluntary compliance possible, if tax law assistance by telephone were eliminated;
- Testimony by witnesses at the hearing which concluded that compliance with our tax laws would diminish if IRS taxpayer assistance programs were cut.

NOVEMBER 1976 IRS STUDY

The Assistant Secretary for Administration completed a study in November 1976 on the IRS individual income-tax returns preparation and review programs. The study analyzed the costs and benefits of these programs compared to third-party preparation and preparation by taxpayers.[36]

In terms of direct costs and benefits to the Service, the study found that the direct preparation and review programs did not pay for themselves. However, the study determined there were substantial indirect benefits, which, if incorporated, would result in a positive benefit-to-cost ratio. These indirect benefits included: (1) A considerable number

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[35] Testimony of former IRS Commissioner Jerome Kurtz before the Subcommittee on Oversight of Government Management, March 24, 1982, Hearing Record, p. 10.
[36] Supra note 29, Hearing Record at 148–164.

of those who received free IRS assistance would, in its absence, have resorted to commercial preparation, which they could ill afford; (2) IRS return preparation and review substantially reduced the incidence of unallowable items on returns, thereby reducing Service Center audit staff hours which would otherwise be required; and (3) The IRS provided more accurate service when dealing with new requirements of the tax law.[37]

The consequences of not providing direct preparation and review assistance, according to the IRS study, would be immediately apparent: "Many taxpayers would not or could not comply with the law without our assistance." [38]

Commissioner Egger cited the 1976 study in his prepared statement in response to the Subcommittee's question whether the savings realized from reducing taxpayer service outweighed the benefits, both direct and indirect, provided by the taxpayer assistance programs before they were cut. In his answer, however, the Commissioner emphasized only the direct benefits:

> In 1976, we conducted an indepth study of the Taxpayer Service returns preparation and review program. Although we determined there were benefits, in terms of reduced mathematical errors, unallowables and other costs incurred by the Service in perfecting returns, they were not enough to overcome, in traditional cost-benefit analysis terms, the cost of providing that assistance.[39]

Contrary to the Commissioner's statement, the 1976 IRS study concluded that the "tax administration system would be ill-served were we to turn away taxpayers who ask for assistance, using as a sole criterion that such service is not cost-beneficial to the Government." [40] Despite its own findings, the IRS eliminated the direct preparation and review programs for the fiscal 1982 filing period.

DECEMBER 1977 IRS STUDY

A follow-up study completed in December 1977 focused on the effect of IRS preparation assistance on voluntary compliance. According to the 1977 study, the examination rates for Service-prepared returns were lower than third-party and taxpayer-prepared returns. For the returns examined, the study found that Service-prepared returns had a much higher no-change rate, i.e., the returns were correct as filed.[41]

The primary reason provided by the study to explain why taxpayers who seek Service assistance are more compliant is that the quality of assistance prevented errors which otherwise would have resulted in selection for audit and in tax changes after audit. Another possible reason, and one which Commissioner Egger discussed during the hearing,

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[37] Id., Hearing Record at 148–149.
[38] Id., Hearing Record at 149–150.
[39] Supra note 31, Hearing Record at 73.
[40] Supra note 29, Hearing Record at 150.
[41] Internal Revenue Service report to the Office of Management and Budget on the Costs and Benefits of IRS Returns Preparation and Review, December 19, 1977, Hearing Record, pp. 165–174.

is that these taxpayers may be more inclined to meet their tax obligations. The Commissioner stated:

> We believe that taxpayers who request IRS assistance want to comply. Consequently, any change in compliance may be more related to the taxpayers' desire to comply or not to comply than to the effects of assistance provided.[42]

The Subcommittee believes both reasons are plausible; however, taxpayers who may be more compliant by nature will be less compliant, through no fault of their own, if free preparation assistance is not available. Inadvertent mistakes, which might have otherwise been corrected by a Taxpayer Service representative, will be made by those who need assistance but cannot afford it. As Senator Levin stated at the hearing:

> Without this information and without these answers, many well-intentioned taxpayers, who otherwise cannot afford private help, will actually be forced into noncompliance either by filing incomplete or erroneously completed returns.[43]

OCTOBER 1981 IRS MEMORANDUM TO TREASURY

The evidence which states most conclusively that reductions in IRS taxpayer assistance would adversely affect compliance is an October 1981 memorandum from Commissioner Egger to Deputy Secretary McNamar. In this memorandum, Commissioner Egger appealed Treasury's decision to eliminate Taxpayer Service in fiscal 1983 by listing the consequences of cutting each of the programs.[44]

In one particular section, for example, the Commissioner stated that "potential revenue losses would be great, with widespread deterioration of voluntary compliance possible," if tax law assistance by telephone is eliminated. Commissioner Egger estimated that a one per cent reduction in compliance costs the government $4 billion annually.[45]

The Subcommittee however, found a discrepancy between the Commissioner's statements at the hearing and those made in the October memorandum regarding the impact of the proposed reductions in taxpayer assistance on compliance. When Senator Cohen asked Commissioner Egger whether the cutbacks in the IRS taxpayer assistance programs would adversely affect voluntary compliance, he responded:

> Frankly, Mr. Chairman, we do not know. We have been unable to measure the impact taxpayer assistance has on compliance. However, with the wide range of assistance programs which we expect to provide in fiscal 1983, we do not believe that the taxpayers' desire or ability to comply with the tax laws will be that adversely affected.[46]

Senator Cohen then asked the Commissioner what had changed from the time of the IRS' initial budget submission to Treasury in which he recommended a balanced taxpayer assistance program at fis-

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[42] Supra note 31, Hearing Record at 74.
[43] Supra note 33, Hearing Record at 6.
[44] Supra note 21.
[45] Id., Hearing Record at 239.
[46] Supra note 27, Hearing Record at 54.

cal 1982 levels and the hearing at which he supported a reduced program. The Commissioner responded:

> I think the first thing that happened was the budget got reduced and necessitated a rethinking of how we were going to provide the maximum service.[47]

The Subcommittee believes that the IRS' initial recommendations for Taxpayer Service in fiscal 1983 were correct and that the Department of Treasury's decision to eliminate the program, as well as the ultimate compromise for drastically reduced assistance, were shortsighted for the very reasons Commissioner Egger outlined in his October memorandum. This issue was discussed at the hearing with regard to the tax law assistance by telephone program:

> Senator COHEN. These so-called policy judgments . . . really are justifications imposed by the fact that you've had the Taxpayer Service budget cut. But it really doesn't reflect a fundamental change in your statement appealing that initial Treasury decision. The four basic consequences [of eliminating tax law assistance by telephone] remain: 27 million people would lose the assistance; there would be large increases in correspondence which will not be answered; people would either interpret their tax returns favorable to themselves or ignore them altogether; and the potential losses due to reductions in voluntary compliance would be great. These are still very important elements in your own judgment.
>
> Commissioner EGGER. I would have to agree with you, Mr. Chairman, that each of those elements is present, again, because of the necessity to attempt to comply with and to live within the concept of Government in the Reagan Administration; namely, to reduce the size of the Government, to reduce the cost of Government to taxpayers. There is a very legitimate question now here as to what is enough in the way of taxpayer service? And I don't know that there is an answer.[48]

Despite the consequences for compliance listed in the Commissioner's memorandum, the tax law assistance by telephone is slated to be eliminated in fiscal 1983.

TESTIMONY BY SUBCOMMITTEE WITNESSES

Witnesses at the hearing provided further substantiation that reductions in taxpayer assistance will ultimately hurt compliance. In his prepared statement, former Commissioner Kurtz said:

> I believe this proposed reduction in Taxpayer Service is foolish. While the effect of taxpayer assistance on compliance cannot be measured, it seems clear to me and to many others who have participated extensively in tax administration, that there is such an effect and that it may be substantial. A taxpayer who, for example, cares enough about whether a partic-

[47] Id. Hearing Record at 57.
[48] Id.

ular expenditure may be deductible to call the IRS and ask for advice may well feel justified in resolving all doubts in his or her favor if the IRS refuses to give that advice.

Our tax system faces serious compliance problems, stemming at least in part from a perception among taxpayers that our system is unfair. To compound that problem by administering the system unfairly, by not providing assistance, is horribly short-sighted. Our system rests on a tradition of compliance which should not be taken for granted. And once lost, it will not be easily regained.[49]

Mr. Alexander agreed:

> I [also] think that this is a short-sighted policy, that it will damage the tax system, that it will impair compliance, and that it will impair compliance dramatically. If the IRS refuses to assist taxpayers, I think that that discredits the tax system in the minds of those taxpayers . . . and if they are turned off by the system, I think that their attitude toward compliance with the system will diminish.[50]

William Anderson, Director of the General Government Division of the General Accounting Office (GAO), testified that the losses resulting from reduced compliance may offset any savings. Mr. Anderson cited the November 1976 IRS study as support for GAO's contention:

> . . . Some taxpayers may not file returns or may file returns containing inadvertent errors or errors resulting from personally favorable tax law interpretations. IRS, therefore, could conceivably face a situation where return perfection and collection costs exceed comparable prefiling assistance costs.
>
> Various studies conducted in past years lend credence to [this] possibility. IRS decided to reduce the number of walk-in offices and to eliminate direct return preparation and return review assistance in fiscal 1982. Yet an IRS study of the return preparation and review programs, initiated in 1974 [and completed in November 1976] found that, in comparison to all returns filed, tax returns prepared or reviewed by IRS had fewer math errors, fewer unallowable items, fewer defects requiring service resolution, and less likelihood for audit.[51]

The Subcommittee agrees with Professor Deborah Schenk's statement at the hearing that "a cutback which saves dollars today but impairs our ability to raise revenue tomorrow is a dubious proposition; a cutback that threatens our voluntary self-compliance system is a disastrous proposition." [52]

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[49] Supra note 35.

[50] Testimony of former Commissioner Donald C. Alexander, March 24, 1982, Hearing Record, pp. 11–12.

[51] Prepared statement of Mr. William J. Anderson, Director, General Government Division, General Accounting Office, before the Subcommittee on Oversight of Government Management March 24, 1982, Hearing Record, pp. 47–48.

[52] Prepared statement of Professor Deborah H. Schenk, Harvard Law School, before the Subcommittee on Oversight of Government Management, March 24, 1982, Hearing Record, p. 25.

D. Shifting Emphasis Has Left a Void in Taxpayer Service

With the reductions in Taxpayer Service this year and next, the IRS has shifted its resources to those programs which it feels are the most productive and cost-effective methods of providing assistance. The elimination of the direct preparation and review programs in fiscal 1982 forced the IRS to shift its emphasis from walk-in assistance to the toll-free telephone system. If the reductions in telephone assistance are passed next year, the IRS has proposed a further shift to IRS-sponsored volunteer programs, publications, Tele-Tax, and, ultimately, commercial assistance.

The Subcommittee found, however, that this continual shift in emphasis from one program to another has left a void in Taxpayer Service. Based on evidence and testimony presented, the Subcommittee found that IRS telephone assistance, although an efficient means of assisting taxpayers, was insufficient to offset the reduction in walk-in assistance in fiscal 1982. The Subcommittee also found that it is unlikely that volunteers, publications, Tele-Tax, or commercial assistance can adequately compensate for the drastic reduction in telephone assistance in fiscal 1983.

TELEPHONE ASSISTANCE TO OFFSET WALK-IN REDUCTIONS

According to the fiscal 1982 IRS Congressional Submission, the reliance on the toll-free telephone program to offset the reductions in walk-in services would allow "the greatest number of taxpayers access to tax assistance for the least cost to the Service."[53] The toll-free telephone system operates from 52 answering locations and includes all the United States and Puerto Rico.

Although the IRS has historically considered telephone assistance to be the most efficient method of helping taxpayers, the Subcommittee believes that it should be used to supplement, not supplant, walk-in assistance. There also are indications that the quality of telephone assistance needs improvement. The Subcommittee conducted a survey in February 1982 to determine the timeliness and accuracy of IRS telephone assistance in Maine. The survey established that telephone assistance could not, by itself, adequately service all taxpayers who seek help. There were cases in which calls went unanswered for 16 and 17 minutes, and other calls which were answered incorrectly. While the sample size was too small to generate any definitive findings, the Subcommittee did conclude that the timeliness and accuracy of the IRS telephone assistance would not improve as further burdens were imposed as filing season drew to an end.

The General Accounting Office conducted a more extensive survey of IRS telephone assistance during the fiscal 1982 filing period to follow-up its 1978 survey and presented the preliminary findings at the hearing.[54] GAO has since completed its survey of approximately 1,100 calls and the findings are:

- IRS was accurate 86 percent of the time in responding to taxpayers' questions, compared to 87 percent in its 1978 survey.

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[53] Supra note 9.
[54] Supra note 47, Hearing Record at 43–44.

- Each time a taxpayer calls the IRS in 1982, there is a 67 percent probability of being placed on hold before reaching an assister, compared to 42 percent in the 1978 survey.
- Taxpayers can expect to reach an IRS assister on their first call only 67 percent of the time in 1982 compared to 78 percent in 1978.

William Anderson, Director of the General Government Division of GAO, testified at the hearing and concluded from the preliminary findings that the overall adequacy of IRS telephone assistance has declined somewhat since 1978. In his prepared statement, Mr. Anderson said:

> Taken together, the decline in accuracy, timeliness, and availability means that for each 100 telephone calls made to IRS, only 72 result in contact with an IRS assister who correctly answers a question. The remaining 28 calls either do not get answered, get cut off, or result in assisters providing erroneous answers.[55]

The Subcommittee believes that the results of these surveys are optimistic, as they are biased in favor of the IRS. The questions asked throughout the surveys were clear, factual, succinct, and, therefore, more easily understood by the IRS Taxpayer Service employee. In actuality, however, questions asked by taxpayers are not always clear, and the assistance provided can only be as accurate as the clarity of the question asked. In some cases, a taxpayer may not have one specific question in mind, but instead has a more general problem understanding the tax form. In other cases, a taxpayer may have a question but is unable to ask it in such a way for the IRS employee to understand and answer it.

Nevertheless, the Subcommittee does not feel that the results of the surveys justify the elimination of the tax law assistance by telephone program in fiscal 1983. Mr. Anderson agreed at the hearing in this dialogue with Senator Cohen:

> Senator COHEN. . . . Does it make sense to eliminate the telephone service or would it make more sense, in the long run, to put more people on the phones, to have more careful monitoring of the conversations, and to try and perhaps better train some of the individuals to give better advice?
>
> Mr. ANDERSON. I would say that our own viewpoint is very clear—that the most effective thing that the Government could do is improve the quality of the service, maintain it, improve its quality through training, whatever other steps are necessary.[56]

VOLUNTEER PROGRAMS TO OFFSET TELEPHONE REDUCTIONS

The Administration's proposal to reduce the toll-free telephone program in fiscal 1983 places the emphasis on volunteer programs, publications, Tele-Tax, and commercial preparation to provide substantive tax law assistance. As a result of the hearing, however, the Subcom-

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[55] Id. at 44.
[56] Testimony of Mr. William Anderson, March 24, 1982, Hearing Record, p. 32.

mittee found that these programs, taken together, will not be able to compensate for the reductions in telephone assistance.

1. IRS-sponsored volunteer programs

Through the Volunteer Income Tax Assistance program (VITA) and the Tax Counseling for the Elderly program (TCE), IRS-trained volunteers assist taxpayers with special needs such as the low income, elderly, blind, and non-English speaking, in the preparation of tax returns. VITA was established in 1970, and TCE added in 1980, to supplement telephone and walk-in assistance. In fiscal 1981, the IRS reported that 47,400 volunteers prepared 372,000 Federal returns.[57]

Based on testimony received during the hearing, the Subcommittee found that VITA and TCE were considered to be well-conceived programs, but that IRS should not rely on them as the sole source of tax law assistance. Former Commissioner Alexander stated:

> It was my experience as Commissioner, and I believe that this continues to be true, that volunteer tax preparer programs should be part of an overall taxpayer outreach program but cannot replace the services of trained IRS personnel. The level of accuracy of volunteer-prepared returns, while improved over past years, is not as good as it should be, and the difficulty of monitoring volunteer assistance makes volunteer programs an inadequate substitute for direct IRS assistance.[58]

Professor Schenk, an associate of the Community Tax Aid organization serving low-income taxpayers, also felt that the IRS volunteer programs would be inadequate to offset the reductions in direct IRS assistance:

> In 1983, the Service will rely on its Volunteer Income Tax Assistance and Tax Counseling for the Elderly programs to provide technical assistance. Such reliance is totally misplaced. While the hundreds of VITA volunteers are well-intentioned and generous, they are poorly trained, poorly supervised and often poorly situated. The program at Harvard Law School, apparently the largest VITA program in the country, is typical. There are no prerequisites to being a VITA volunteer. Although all of our volunteers are law students, volunteers in other programs need have no minimum education, no prior tax or language training, and no experience.
>
> The Service apparently has no idea how effective the VITA program is. There is inadequate monitoring of the VITA volunteers or the returns they prepare. The volunteers are not required to evaluate their efforts or to submit statistical reports to the Service. The IRS has no evidence about the quality of service or the error rate. The IRS has no evidence about the extent to which low-income taxpayers are being helped. The IRS has no evidence as to whether VITA volunteers are able to and are providing adequate and accurate technical assistance.[59]

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[57] Supra note 31, Hearing Record at 74.
[58] Supra note 34, Hearing Record at 17.
[59] Supra note 52, Hearing Record at 26–27.

2. IRS publications

The IRS plans to continue distributing publications to help taxpayers prepare their returns. In his statement at the hearing, Commissioner Egger suggested that the answers to a majority of taxpayers' questions could easily be found in one of the publications or forms packages. Based on an informal survey, the IRS determined that approximately 90 percent of the taxpayers could have found the answer to their inquiry in one or more IRS publications or tax packages and that approximately 45 percent of the taxpayers could have found the answer to their inquiries in the 1040/1040A tax package sent to them. The survey indicated, according to Commissioner Egger, that the inconvience of not having the IRS answer tax law questions over the phone would be largely ameliorated by free, easily available publications.[60]

Testimony presented to the Subcommittee indicated otherwise. According to former Commissioners Alexander and Kurtz, the IRS has not considered the fact that many taxpayers may not have particular questions in mind, and for those that do, many may not understand the answer provided in the publication.

> Mr. ALEXANDER. Responding by telephone is far better . . . than forcing people to dig their way through 133 publications, some of which are turgid reading that rival *Ulysses*, in my judgment, when they don't know what they are looking for and when they don't know how to phrase the right question, and when they're not tax law specialists who are reading to discover whether the question is actually answered in IRS publications.[61]
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> Mr. KURTZ. That a tax law specialist can find the answer in an IRS publication hardly addresses the problem of the large numbers of taxpayers who have difficulty understanding the instructions as applied to their situation or do not have, cannot get, or do not know about the various IRS publications on specific topics.[62]

Also, as one tax consultant stated in a letter to the Subcommittee:

> It may be true that 98 percent or more of the questions that are asked of the IRS agents on the telephone are answered already in the IRS publications. I would just respond that cookbooks are full of many marvelous banquets but we've all gotten indigestion from even the most well-intentioned cooks.[63]

3. Tele-Tax

As a substitute for personal telephone assistance, the IRS plans to expand the use of the Tele-Tax Information Service, which provides pre-recorded tax information to taxpayers who have touch-tone telephones. Tele-Tax is currently being tested in Baltimore, Md.

The Subcommittee broadcasted a recording of the Tele-Tax tape at the hearing and found that the information provided was nothing more than what is offered in the IRS publications.[64] If a taxpayer cannot

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[60] Supra note 31, Hearing Record at 70.
[61] Supra note 50, Hearing Record at 14.
[62] Supra note 35.
[63] Letter retained in Subcommittee files.
[64] Transcription of the Tele-Tax tape, Hearing Record, p. 62.

understand written instructions, he or she is certainly not going to understand them when heard over the telephone. Moreover, as Senator Cohen stated at the hearing, using the Tele-Tax system as a method of servicing taxpayers assumes that people have particular questions in mind and would know which category to select to find the answer:

> Some of the people, I assume, that call up have no idea of what they're looking for. If Commissioner Alexander or Kurtz were correct, some taxpayers don't even know how to phrase the question. They call up and they hear a tape saying, if you know the category that you're interested in, you can find it by requesting a certain tape, and dialing such and such a number. You've got to know the category. Many people call up not knowing what category to refer to. What does "type of income" mean? Does it mean partnership income? Does it mean unearned income? Does it mean capital gains type income? Does it mean straight wages? They've got to know that even before they begin.[65]

The Subcommittee therefore found that Tele-Tax is no better than the IRS publications as a substitute for personal assistance, if not worse.

4. Commercial assistance

Over the years, there has been a dramatic growth in the number of firms and individuals who prepare income tax returns for a fee.[66] This growth in the tax preparer industry has resulted from the gap left between the taxpayers' need for help and the level of assistance provided by the IRS. Today, there are an estimated 200,000 to 250,000 firms and individuals engaged in the tax preparation business, which concentrates primarily on total preparation of tax returns. The average charge for such service is $35.

The IRS hopes that taxpayers will turn to the private sector with their tax questions once telephone service is reduced. Aside from the fact that many taxpayers may not be able to afford the charge, the Subcommittee found that commercial preparers are not in the business of quick-question assistance. Former Commissioners Alexander and Kurtz, now tax practitioners in the private sector, agreed that commercial assistance will not be able to compensate for the reductions in telephone assistance:

> Mr. ALEXANDER. I don't see how the private sector could possibly be, or would possibly be, expected to fill the role of the toll-free telephone system. How are they going to charge for it?[67]
>
> Mr. KURTZ. . . . I certainly can't imagine a system [in the private sector] that would begin to handle 40 million telephone inquiries a year. In absolute dollar terms, this is an expensive proposition.[68]

The feasibility of having commercial preparers provide quick-question assistance to replace the IRS telephone service is one issue. The

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[65] Testimony of Senator William S. Cohen, March 24, 1982, Hearing Record, pp. 62–63.
[66] Supra note 4 at 3–4.
[67] Supra note 50, Hearing Record at 12–13.
[68] Supra note 35, Hearing Record at 12.

Subcommittee believes that the quality of private sector assistance, compared to IRS assistance, is another. Mr. Alexander acknowledged in his testimony that most private practitioners do a good, conscientious job, but some do not: "One outfit handed me a form when I was in the IRS and said, two refunds, absolutely guaranteed." [69]

If the IRS plans to rely on the private sector for providing tax assistance, then it is incumbent on the IRS to enforce its tax preparer penalties to ferret out "fly-by-night" operations. According to the General Accounting Office, however, the tax preparer penalties, which were strengthened in the 1976 Tax Reform Act, are not being enforced in a systematic and effective manner.[70]

The tax consultant, who wrote to the Subcommittee claiming to have made a "very good living off the complexities of the tax laws," summed up these points in his letter:

> If the IRS feels that people like myself or those who work for places like H & R Block can or want to substitute for the IRS programs, I can assure you that this is not the case. Although I and others like me would certainly answer an occasional question by telephone, there is not, nor can there be, a private sector equivalent of the IRS telephone program. And the vast majority of people who come to the IRS for help in getting their returns prepared cannot do it without IRS help and cannot afford professional assistance.[71]

If the IRS' ill-conceived proposals go into effect, therefore, the Subcommittee believes that the taxpayer who needs tax law assistance in fiscal 1983 will be given a publication, which he may be unable to understand, and directed either to seek commercial assistance, which he may be unable to afford, or to contact a volunteer group, which may lack the expertise to help him.

E. Low-Income and Elderly Taxpayers Will Be Adversely Affected

The Subcommittee found that the actual and proposed reductions in IRS taxpayer assistance programs will adversely affect those least able to fend for themselves: the low-income and elderly taxpayers. According to a 1977 IRS study, 90 per cent of the taxpayers who sought IRS direct-preparation and review assistance—the programs which were eliminated this past year—were low-income and elderly.[72] Although it is not known which taxpayers call the IRS for tax law assistance—the program slated to be cut next year—experts believe that low-income and elderly taxpayers made up a high percentage of the 27 million calls last year.[73]

The Subcommittee found that 38.5 million persons with incomes under $10,000 and nearly 11 million persons 65 or older filed returns for taxable year 1978.[74] These individuals may not have complicated

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[69] Supra note 50.
[70] Statement of William J. Anderson, Director, General Government Division, General Accounting Office, before the Subcommittee on Oversight, House Committee on Ways and Means, April 26, 1982, p. 35.
[71] Supra note 63.
[72] Supra note 41, Hearing Record at 166.
[73] GAO is currently conducting a survey of taxpayers who call the IRS for assistance.
[74] Statement of David A. Affeldt, legislative consultant, National Retired Teachers Association and American Association of Retired Persons, submitted for the record, Hearing Record, p. 79.

returns, but they are entitled to certain tax breaks, which, without IRS assistance, they might not utilize.

In recent years, Congress has approved measures to ease the tax burden for older and low-income Americans. Elderly taxpayers are entitled to additional exemptions if they are over 65 and/or blind, a $125,000 capital gains exclusion for homeowners 55 or older, medical expense deductions, and the tax credit for the elderly. For low-income taxpayers, there is an earned income credit. But these provisions are of little value unless taxpayers are aware of their existence. Even those who know about these measures frequently need assistance in making the complicated computations.

Professor Schenk discussed the impact of the reductions in IRS Taxpayer Service on low-income taxpayers in her testimony before the Subcommittee.

> Professor SCHENK. Although most taxpayers know the law requires them to file a return, many find it impossible to do so. It is an idle platitude to say to taxpayers you must file a return if we know that taxpayers do not have the ability to file a return or the wherewithal to use a paid preparer or access to free assistance. Taxpayers who, in the past, would have turned to the Service for assistance will in all probability not file a return. We should be troubled I believe by the prospect of taxpayers who are entitled to refunds or earned income credits being unable to file for them because they cannot understand the return or obtain assistance.[75]

The IRS itself anticipated these problems. According to the 1976 IRS study on taxpayer assistance, "there are many instances where without IRS Taxpayer Service programs, taxpayers would be unaware of tax advantages such as credits and deductions to which they are entitled and which have been mandated by law to achieve specific purposes." [76] In the follow-up report in 1977, the IRS concluded that "Service preparation and review . . . does provide, at a reasonable cost, a necessary service to a significant group of disadvantaged taxpayers who otherwise might be forced to seek paid assistance or who possibly would not meet fully their tax obligations." [77]

Despite these anticipated consequences, walk-in services were reduced last year, disproportionately hurting low-income and elderly taxpayers. The Subcommittee sent a questionnaire to IRS district offices in Maine, Michigan, Arkansas, New Hampshire, and Alaska in January 1982 to determine how many taxpayers would be affected. According to the responses, 9 offices were closed this year in the Augusta district, two of which serviced 10,000 taxpayers last year, and 12 offices were closed in the Detroit district, one of which serviced over 14,000 taxpayers last year.[78] Nationally, approximately 2.4 million taxpayers who received walk-in assistance last year—90 percent of whom were presumably low-income and/or elderly—were

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[75] Supra note 52, Hearing Record at 25.
[76] Supra note 29, Hearing Record at 150.
[77] Supra note 41, Hearing Record at 166.
[78] Response to Subcommittee questionaire, Hearing Record, pp. 286–290.

turned away this year, and if the proposed reductions are implemented, an additional 1.1 million will be turned away next year.[79]

The consequences of reducing the toll-free telephone program, according to the IRS, would be even more drastic. In its budget submission to Treasury for fiscal 1983, the IRS noted: "At no time has the alternative of significantly reducing or eliminating the toll-free telephone program been considered. To do so would severely impact on the greatest number of taxpayers and on the type of assistance which is most convenient and cost effective." [80] This alternative has since been considered and proposed for fiscal 1983, despite, once again, the anticipated consequences.

Commissioner Egger emphasized in his statement that "special assistance" will still be available for low-income and elderly taxpayers in fiscal 1983.[81] This will include self-help/group assistance in completing tax returns, and for handicapped and other individuals who demonstrate an inability to use the self-help method, the IRS will directly prepare their returns. The Commissioner also said that the IRS will place increased emphasis on its volunteer programs and the new Tele-Tax system. As discussed in the previous section, however, the Subcommittee found that these programs will not adequately offset the reductions in walk-in and telephone services.

F. Administration's Proposal Will Promote Adversarial Relationship

The Administration's proposal to reduce taxpayer assistance at the same time that enforcement activities are to be greatly increased will promote an adversarial relationship with the taxpaying public. The IRS is already burdened with a negative image, perhaps the inevitable consequence of being the nation's tax collector, but the Subcommittee found that reducing taxpayer assistance will only make it worse.

If taxpayer assistance is viewed as the "positive" approach to improving compliance, compared to the audit and collection approach, then the reductions in walk-in and telephone services this year and next will have a "negative" effect on the public's perception of the IRS.

A spokesman for the Virginia IRS district office stated last November that the expected increase in returns filed, and the closing of posts-of-duty in the district, will be too much for those offices remaining open to handle. In a newspaper interview, he said: "What is already happening is that our level of taxpayer assistance—one of the really good things we do—has been limited. There's going to be a real public relations nightmare. . . ." [82]

Former Commissioner Kurtz expressed similar sentiments when he said:

> I really can't imagine what the situation will be like next filing season if this budget is enacted. The IRS will be staffed to handle 12 million calls. But 40 million or more taxpayers

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[79] These figures are from the fiscal years 1981, 1982, and 1983 IRS Congressional Submissions.
[80] Supra note 18, Hearing Record at 222.
[81] Supra note 31, Hearing Record at 72.
[82] "IRS Fears that Chaos May Reign in Virginia," Richmond Times-Dispatch, November 21, 1981.

> will try to call. Even an answer on the telephone refusing to give information requires an answer and will occupy telephone time.
>
> It seems to me that the situation will be chaotic. Even taxpayers with a type of question the service says it will answer, those relating to account status, will be unlikely to get responses during the filing season.[33]

The Subcommittee believes the proposal to increase enforcement at the expense of assistance is a poor policy, as well as public relations, decision. Taxpayers will be punished for making inadvertent mistakes which probably would not have been made, given the assistance. The Subcommittee is concerned that the fiscal 1983 proposal runs the risk of undermining the integrity of the system. The Subcommittee's chairman explored this possibility in his questioning of Commissioner Egger.

> Senator COHEN. Is there a risk, in your judgment, that we might do what former Commissioner Alexander mentioned, and that is to undermine what has been to date the most effective tax collection system in the world . . . ?
>
> . . . Where do the people who cannot afford commercial preparation go? Where do these 27 million people go? Do they, as you foresaw in your memo to the Deputy Secretary of Treasury, either resolve all questions in their own favor or ignore their tax obligations altogether? Do they fail to file?
>
> Don't you think we ought to have answers to these questions before IRS takes this action? Otherwise we're going to run the risk of turning the American people against the Government.
>
> Commissioner EGGER. To be specific in responding to your question, I think that risk is always present any time you reduce your accessibility to the taxpaying public for the purpose of lending assistance. I think that is a fact.[34]

The Subcommittee also found that the IRS plan to dehumanize its Taxpayer Service program, i.e., move away from walk-in assistance and personal telephone service to publications and pre-recorded tapes, promotes confusion, frustration, and, consequently, an adversarial relationship between the government and the taxpayers. The expansion of the new Tele-Tax program epitomizes this depersonalized service.

Senator Cohen expressed his concern at the hearing:

> I think that we ought to pause at some point and find out what we're doing as a society. This is a question about humanizing institutions—are we simply locked into a galaxy of sorts which is all computers, all digits, all numbers, with no people in between? I don't know that we're stopping and pausing long enough to think about the larger philosophical issues of what's happening in our society, especially as it pertains to the individual and the Government.[35]

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[33] Supra note 35, Hearing Record at 10.
[34] Supra note 27, Hearing Record of 58–59.
[35] Supra note 35, Hearing Record at 63.

V. RECOMMENDATIONS

The Subcommittee supports the Administration's efforts to reduce the federal deficit; however, the Subcommittee does not believe that the short-run savings realized from eliminating IRS taxpayer assistance programs compensate for the long-term costs to the taxpayer, and, ultimately, to the government. As a result of its hearing and investigation, the Subcommittee recommends that:

A. Balanced Taxpayer Service Program Should Be Maintained

Based on the IRS recommendation in its budget submission to Treasury, the Subcommittee recommends that the Taxpayer Service program be maintained at the fiscal 1982 level in fiscal 1983. This program would provide a balance between maximizing the numbers of taxpayers to be assisted, through telephone assistance, and addressing the special needs of low-income, elderly, and physically-handicapped taxpayers, through walk-in assistance. Specifically, the program should include:

- Toll-free telephone assistance for substantive tax law and tax account questions;
- Walk-in assistance principally through self-help methods and direct preparation for those who are unable to utilize self-help; and
- Taxpayer Information and Education classes.

B. Timeliness and Accuracy of Telephone Service Should Be Improved

As the primary source of direct assistance, the IRS toll-free telephone system should be improved to provide more timely and accurate tax law and tax account assistance. The Subcommittee recommends that the Commissioner review the program to consider whether further consolidation of telephone sites would improve the timeliness and efficiency of the service, and whether more extensive training of IRS personnel would improve the accuracy.

C. Volunteer Assistance Should Be Re-Targeted and Improved

The Subcommittee recommends that the IRS continue its volunteer programs to supplement direct assistance. Income limits should be established to ensure that low-income and elderly taxpayers are the primary beneficiaries, as originally intended. To improve the quality and accessibility of IRS-sponsored volunteer assistance, the Subcommittee also recommends that the volunteer training course be expanded, the quality review system be revised to include on-site examination, and reimbursement for TCE volunteers be continued.

D. Taxpayer Service Should Retain Its Organizational Visibility

In contrast to the proposed 1982 IRS reorganization, the Subcommittee recommends that Taxpayer Service should retain its separate divisional status. The IRS initially separated taxpayer services from enforcement activities on the theory that the same IRS division could not effectively assist and assess taxpayers. To place Taxpayer Assistance under the Examination function, as currently proposed, contradicts this common sense theory.

VI. CONCLUSION

The need for taxpayer assistance is the result of unnecessarily complex tax laws. Unfortunately, it is unlikely that the U.S. tax code will be drastically simplified in the near future, and, in the meantime, taxpayers are going to need assistance in completing their tax forms. The Subcommittee believes that its recommendations, if implemented, will alleviate any potential problems next filing season.

The Subcommittee commends the IRS for its cooperation in briefing the staff and responding, in a timely fashion, to the Subcommittee's inquiries. We look forward to working with the Commissioner and his staff on this important issue.

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